

***United States Court of Appeals
for the Second Circuit***



EXHIBITS

ORIGINAL

74-1774

Bpfs

United States Court of Appeals

For the Second Circuit

73 Civ. 4865

HERBERT ROSENTHAL JEWELRY CORPORATION,

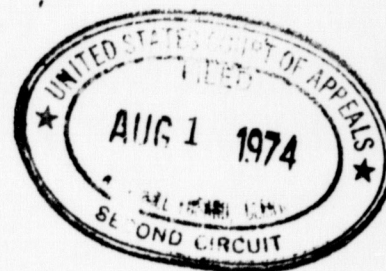
Plaintiff-Appellant,

against

HONORA JEWELRY CO., INC., JERRY J. GROSS-
BARDT and STANLEY SCHECHTER,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK



**EXHIBIT VOLUME
JOINT APPENDIX**

CHARLES SONNENREICH,
Attorney for Plaintiff-Appellant,
500 Fifth Avenue,
New York, New York 10036.
354-2910

POLLACK & SINGER,
Attorneys for Defendants-Appellees,
61 Broadway,
New York, New York 10006.
952-0330

original

5

INDEX TO EXHIBIT BOOK

	Page
Plaintiff's Certificate of Copyright Registration	1.
Photographs of plaintiff's pins copied by defendants in prior litigation (68 Civ. 4154)	2.
Page 11 of Abercrombie & Fitch Christmas catalog illustrating defendants' pin (J)	3.
Defendants' Exhibit A. plaintiff's jeweled turtle pin. (Original to be produced upon argument of appeal)	4.
Defendants' Exhibit B, defendants' jeweled turtle pin. (Original to be produced upon argument of appeal)	5.
Letter of November 30, 1970 from Honora Limited to undisclosed firm. (Defendants' Exhibit I)	6.
Invoice dated January 5, 1971 for 14k & 18k fine Gold Jewelry Findings (Defendants' Exhibit J)	7.
Certificate of Copyright Registration issued to Honora November 19, 1973	8.

Certificate

Registration of a Claim to Copyright in a work of art or a model or design for a work of art

FORM G

CLASS	REGISTRATION NO.
G	Gp 56652
DO NOT WRITE HERE	

This is To Certify that the statements set forth on this certificate have been made a part of the records of the Copyright Office. In witness whereof the seal of the Copyright Office is hereto affixed.

Stephen L. Kaminstein
 Director of Copyrights
 United States of America

1. Copyright Claimant(s) and Address(es):

accepted alternate designation of
 Name HR/Herbert Rosenthal Jewelry Corp.

Address 22 West 48th Street, New York, N.Y.

Name

Address

2. Title: Jaweled Turtle Style 3006DE

(Title of the work)

3. Nature of Work: an article of jewelry

(Characterize the general type of artistic work involved, as, for example, painting, drawing, sculpture, design, model, etc.)

4. Optional Deposit:

Mark the claiming option:

- ☐ Monetary value (retail value per copy) ☐ Weight (in pounds)
☐ Size (give dimensions) ☐ Fragility (give details) likelihood of breakage

5. Author (i.e., Artist):

Name Herbert Rosenthal Jewelry Corp.

(Legal name followed by pseudonym if latter appears on the copies)

Citizenship U.S.A.
 (Name of country)

Domiciled in U.S.A. Yes No Address

6. (a) Date of Publication:

April 13 1967
 (Month) (Day) (Year)

(b) Place of Publication:

U.S.A.

(Name of country)

(c) Manufacture Outside United States by Lithography or Photoengraving Process:

(Name of country)

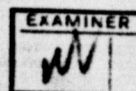
7. Previous Registration or Publication:

Was work previously registered? Yes No Date of registration Registration number
 Was work previously published? Yes No Date of publication Registration number
 Is there any substantial NEW MATTER in this version? Yes No If your answer is "Yes," give a brief general statement of the nature of the NEW MATTER in this version:

PRE-TRIAL EXHIBIT
 U. S. Dist. Court
 S. D. of N. Y.

3/17/70 Z

Complete all applicable spaces on next page



8. Deposit account:

9. Send correspondence to:

Name **Charles Sonnenreich** Address **1501 Broadway, New York, N.Y.**

10. Send certificate to:

(Type or print name and address)

Charles Sonnenreich
1501 Broadway
(Number and street)
New York, N.Y.
(City) (State) (ZIP code)

Information concerning copyright in works of art

When To Use Form G. Form G is appropriate for unpublished and published works of art, and models and designs for works of art.

What Is a "Work of Art"? This category (Class G) includes works of the fine arts, and works of artistic craftsmanship in their form but not their mechanical or utilitarian aspects are concerned. Common examples of works of art are

paintings, drawings, sculpture, ceramics, artistic jewelry, original designs applied to textiles, and the like.

Duration of Copyright. Statutory copyright begins on the date the work was first published, or, if the work was registered for copyright in unpublished form, copyright begins on the date of registration. In either case, copyright lasts for 28 years, and may be renewed for a second 28-year term.

Unpublished works of art

How To Register a Claim. To obtain copyright registration, mail to the Register of Copyrights, Library of Congress, Washington, D.C., 20540, a photograph or other identifying reproduction of the work, an application on Form G, properly completed and signed, and a fee of \$6. Deposits are not returned, so do not send your only copy.

Procedure To Follow if Work Is Later Published. If the work is later reproduced in copies and published, it is necessary to make a second registration, following the procedure outlined below. To maintain copyright protection, all copies of the published edition must contain a copyright notice in the required form and position.

Published works of art

What Is "Publication"? Publication, generally, means the sale, placing on sale, or public distribution of copies. Unrestricted public exhibition of a work of art may also constitute publication.

How To Secure Copyright in a Published Work of Art:

1. Produce copies with copyright notice.
2. Publish the work.
3. Register the copyright claim, following the instructions on page 1 of this form.

The Copyright Notice. In order to secure and maintain copyright protection in a published work, it is essential that all copies published in the United States contain the statutory copyright notice. The notice should ordinarily consist of the word "Copyright," the abbreviation "Copr.," or the symbol ©, accompanied by the name of the copyright owner. The year date of publication may be included in the notice, but normally it is not required.

Alternative Form of Notice. As an alternative, the notice for works of art may consist of the symbol ©, accompanied by the initials, monogram, or mark of the copyright owner, provided the owner's name appears on some accessible part of the copy.

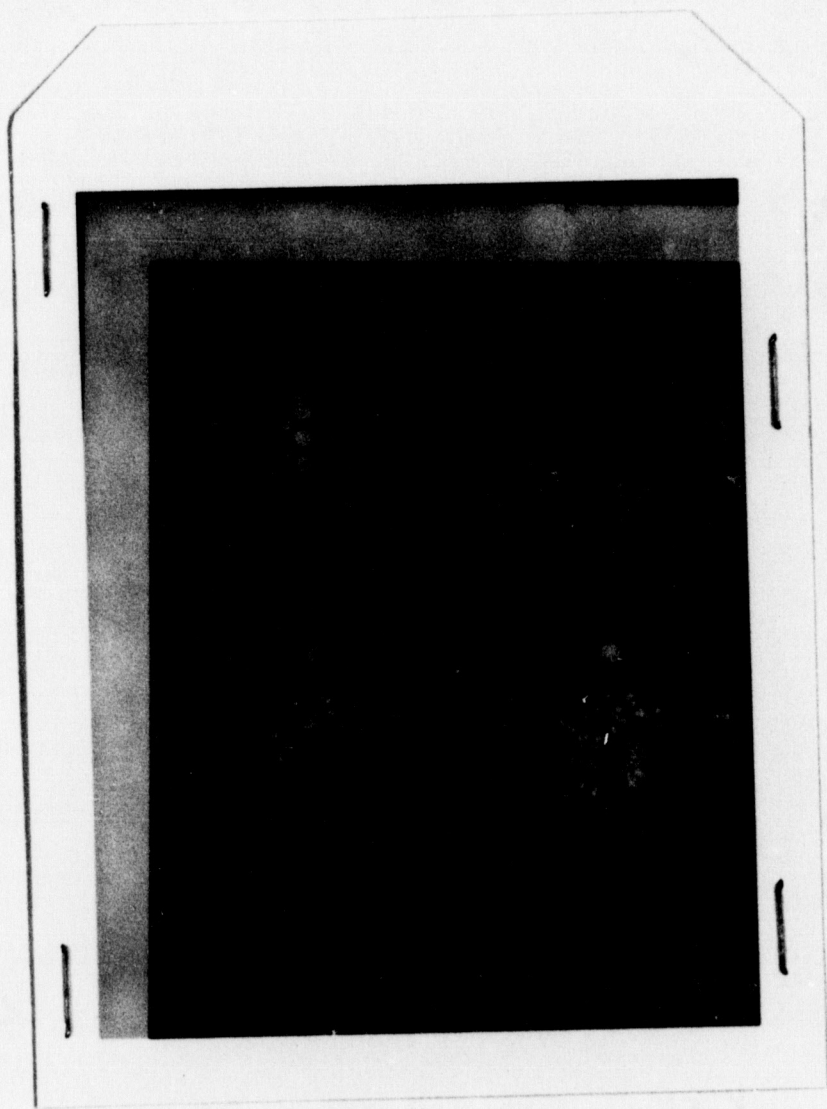
—Universal Copyright Convention Notice. The symbol © with the name of the copyright owner and the year date of publication may result in securing copyright in countries which are parties to the Universal Copyright Convention, which protection might not be obtained by use of either of the alternative forms of notice. Example: © John Doe 1965.

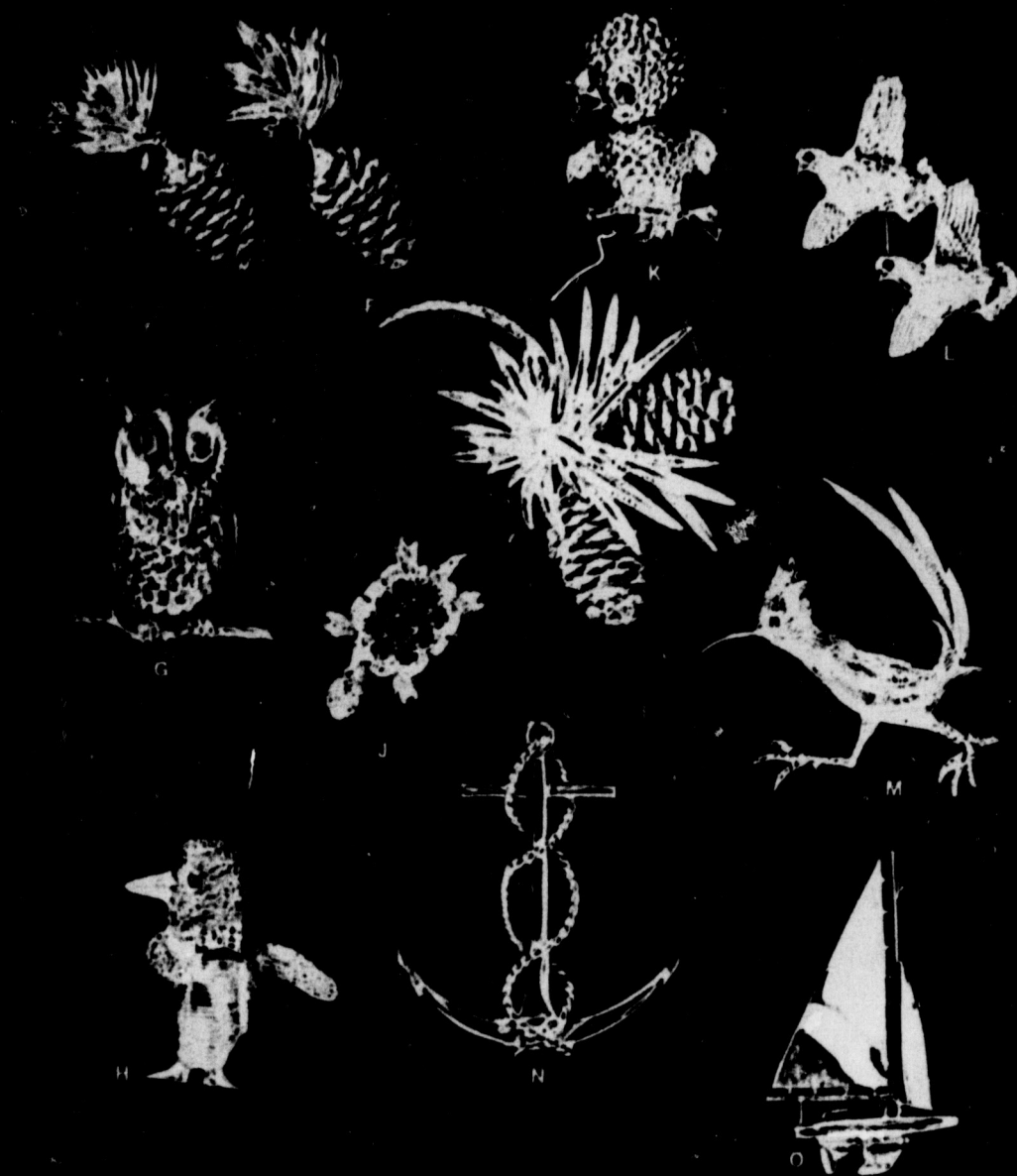
Optional Deposit. For certain published works, it may be impractical to deposit actual copies because of their size, weight, fragility, or monetary value. In such cases the Register of Copyrights may permit the deposit of photographs or other reproductions instead of the actual copies, under conditions specified in the Copyright Office Regulations. If the optional form of deposit is used, it will be necessary: (1) to fill out line 4, on pages 1 and 3, and (2) to deposit photographs or other identifying reproductions of the work. For more detailed information, write to the Copyright Office.

If you consider that first publication of your work took place by means of its unrestricted public exhibition with copyright notice, you may deposit photographs of the work.

NOTE: If copies are published without the required notice, the right to secure copyright is lost and cannot be restored.

FOR COPYRIGHT OFFICE USE ONLY		
Application received DEC -4 1967	Two copies received	Photographs or reproductions received DEC 4 1967
One copy or reproduction received	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> EXHIBIT D-1 5/4/71 W.B. </div>	
Fee received 45793 DEC-4'67		





Jackfin's lush holiday threesome

A. Velour blazer jacket is a festive 100% cotton velveteen, which features the careful hand-tailoring for which Jackfin is famous. Green. 8-18. X-64-4040. 98.00. The tailored button front shirt may be worn casual or with ascot or bow. Long sleeves. 100% easy-care polyester in holiday red. 8-18. X-75-2412. 30.00. The long 6-gore skirt is 100% wool in red/green/white plaid. 8-18. X-64-5234. 78.00.

B. Bee in the bamboo on our 14K gold ring, bracelet and pin. The bee is genuine jade with a diamond. All by Louis Franklin & Sons. Bracelet. X-86-1005. 250.00. Ring. X-86-1006. 105.00. Pin. X-86-1007. 150.00.

C. 14K gold buckle ring is mesh woven, a novel conversation piece; adjusts to any finger. Suitable for men or women. By Superior Chain & Jewelry Co. X-86-1008. 250.00.

D. Walnut pillbox is crafted of sterling silver. A novel and attractive way to carry your aspirins or whatever. By Godinger Silver. X-86-1009. 30.00.

E. Sterling silver gives an air of distinction to your luggage, or as a key ring. Key ring. X-86-1010. 28.00. Luggage tag. X-86-1011. 32.00.

F. Pine cones are natural and authentic, especially picked and finished in 18K gold. By Honora Jewelry. Earring. X-86-1012. 350.00. Pin. X-86-1013. 370.00.

G. Owl pin is full of personality. By J. O'Neill in 14K gold. X-86-1014. 140.00.

H. Pelican pin is 18K gold, its bowtie filled with diamonds. By Iral Jewelry. X-86-1015. 225.00.

I. 18K gold turtle plods along winningly, its back

loaded with rubies. By Honora Jewelry. X-86-1016. 195.00.

K. Baby chick pin of 14K gold is most appealing. By J. O'Neill. X-86-1017. 100.00.

L. Double quail pin... a perfect couple in 14K gold. By J. O'Neill. X-86-1019. 92.00.

M. The readrunner has movable feet and tail; is fashioned of 18K gold. By Honora Jewelry. X-86-1018. 100.00.

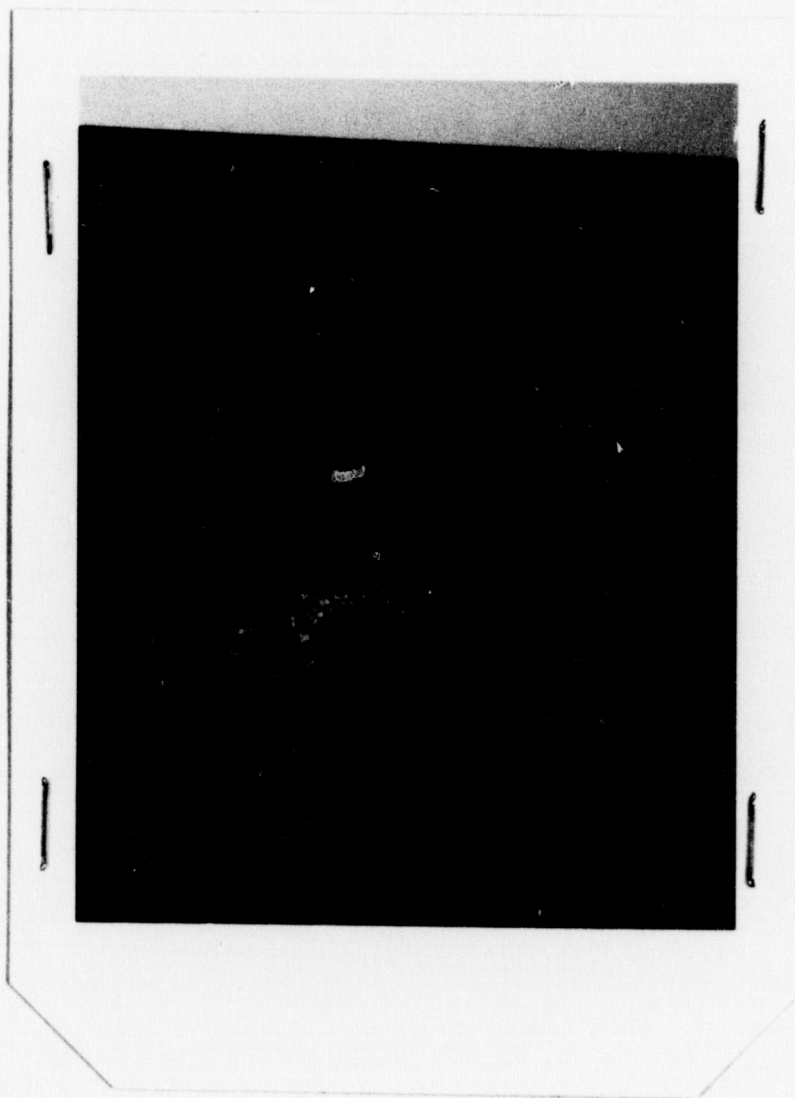
N. Rope and another pin is perfect gifting for the nautical buff. 14K gold by Sloan & Co. X-86-1021. 135.00.

O. Saltbeast pin is fashioned of 14K gold, carefully crafted. By Sloan & Co. X-86-1020. 98.50.

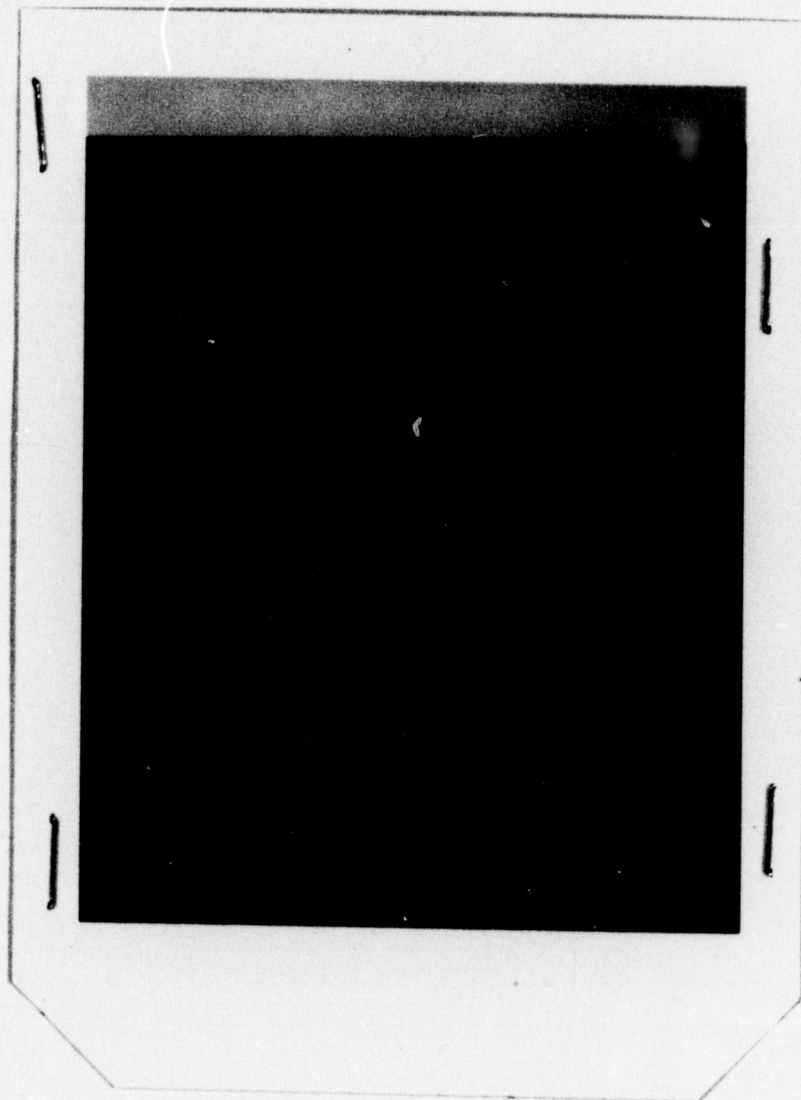
All jewelry shipped parcel post, insured.

Pls. Lx 4
for id WD
2/27/74

golden treasure finds for Christmas



Plaintiff's jeweled turtle pin Exhibit A.



Defendants' jeweled turtle pin Exhibit B.

November 30, 1970

I have just received your letter of November 24th, for which I thank you.

We still did not receive the second parcel you shipped. I have been trying to locate it here at the Post Office, and U.S. Customs, but,, have not had any luck. In the future, please send all shipments registered mail. This will make it easier for me to check here in New York.

If we do not get this shipment within another ten days, I suggest you check in Hong Kong with the postal authorities, and make sure the package left Hong Kong.

Regarding the six bug pins, ~~the two~~ and the two different size owl pins we ordered, I would like to know if you can also make an inexpensive turtle pin in two sizes using the same motif. If you can, please make us the two samples as soon as possible.

Best regards to your wife.

Sincerely yours,

HONORA LIMITED

Stanley Schechter

SS:bp

Repts Ex 1 for id
WP 2/27/74

Date Jan. 5, 1971

INVOICE

Invoice of 14K & 18K Fine Gold Jewelry Findings.

Shipped per Air Parcel Post on Jan. 5, 1971

For account & risk of M/S. Honora Ltd., 42 West 40th Street, New York, N.Y. 10036, USA

Ordered by your Letters dated 11/18/70. & 11/30/70. Term

NO.	QTY	DESCRIPTION	UNIT U.S. \$	TOTAL U. S. \$
<u>14K & 18K FINE GOLD JEWELRY FINDINGS</u>				
<u>Ordered by your letter dated 11/18/70.</u>				
SS70-3	6 pcs.	Brooch Findings, Bug, 18K, 20x15mm.	16.00	96.00
<u>Ordered by your letter dated 11/30/70.</u>				
SS71-1	1 pc.	Brooch Finding, Turtle, 14K, 14x10mm.	17.00	17.00
SS71-1	1 "	" " " " 20x15mm.	20.00	20.00
				US\$133.00
PLUS: Air Postage & Insurance				4.25
Total -				<u>US\$137.25</u>

C. I. F. New York

Country of Origin: Hongkong

Packed in One (1) Box

Shipping Mark: ADD.

Debit Cr
J for
N/A 2/27/74

1/19 Pdx #4242 Ltd
19158 Jling

E. & O. E.

Certificate

Registration of a Claim to Copyright

in a work of art or a model or design for a work of art

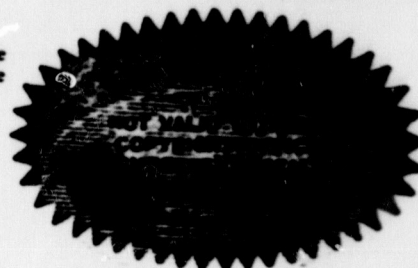
FORM G

CLASS	REGISTRATION NO.
G GP	87937
DO NOT WRITE HERE	

This is To Certify that the statements set forth on this certificate have been made a part of the records of the Copyright Office. In witness whereof the seal of the Copyright Office is hereto affixed.

Barbara Riser

Register of Copyrights
United States of America



1. Copyright Claimant(s) and Address(es):

Name *"H, accepted alternative designation of Honora Jewelry Co. Inc."*
Address *42 West 48th Street New York, New York 10036*

Name

Address

2. Title: *Jeweled Turtle*

(Title of the work)

3. Nature of Work: *sculptured gold turtle with precious stones*

(Characterize the general type of artistic work involved, as, for example, painting, drawing, sculpture, design, model, etc.)

4. Optional Deposit:

Basis for claiming option:

☐ Monetary value (retail value per copy)☐ Size (give dimensions)☐ Weight (in pounds)☐ Fragility (give details)

5. Author (i.e., Artist):

Name *Stanley Schechter* (Legal name followed by pseudonym if latter appears on the copies)
Citizenship *U.S.A.* (Name of country)
Domiciled in U.S.A. ☒ Yes ☐ No Address *180 Waverly Rd. Scarsdale, N.Y. 10583*

6. (a) Date of Publication:

March 30 1972
(Month) (Day) (Year)

(b) Place of Publication:

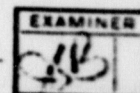
United States

(c) Manufacture Outside United States by Lithographic or Photoengraving Process:

(Name of country)

7. Previous Registration or Publication:

Was work previously registered? Yes ☐ No ☒ Date of registration _____ Registration number _____
Was work previously published? Yes ☐ No ☒ Date of publication _____ Registration number _____
Is there any substantial NEW MATTER in this version? Yes ☐ No ☐ If your answer is "Yes," give a brief general statement of the nature of the NEW MATTER in this version:



Complete all applicable spaces on next page

8. Deposit account:

9. Send correspondence to:

Name STANLEY SCHECHTER Address 42 West 48th St. New York, N.Y.

10. Send certificate to:

(Type or

print

name and

address)

Name

Address

HONORA JEWELRY Co. Inc.

42 West 48th Street

(Number and street)

New York

New York

(City)

(State)

10036

(ZIP code)

Information concerning copyright in works of art

When To Use Form G. Form G is appropriate for unpublished and published works of art, and models and designs for works of art.

What Is a "Work of Art"? This category (Class G) includes works of the fine arts, and works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned. Common examples of works of art are

paintings, drawings, sculpture, ceramics, artistic jewelry, original designs applied to textiles, and the like.

Duration of Copyright. Statutory copyright begins on the date the work was first published, or, if the work was registered for copyright in unpublished form, copyright begins on the date of registration. In either case, copyright lasts for 28 years, and may be renewed for a second 28-year term.

Unpublished works of art

How To Register a Claim. To obtain copyright registration, mail to the Register of Copyrights, Library of Congress, Washington, D.C., 20540, a photograph or other identifying reproduction of the work, an application on Form G, properly completed and signed, and a fee of \$4. Deposits are not returned, so do not send your only copy.

Procedure To Follow if Work Is Later Published. If the work is later reproduced in copies and published, it is necessary to make a second registration, following the procedure outlined below. To maintain copyright protection, all copies of the published edition must contain a copyright notice in the required form and position.

Published works of art

What Is "Publication"? Publication, generally, means the sale, placing on sale, or public distribution of copies. Unrestricted public exhibition of a work of art may also constitute publication.

How To Secure Copyright in a Published Work of Art:

1. Produce copies with copyright notice.
2. Publish the work.
3. Register the copyright claim, following the instructions on page 1 of this form.

The Copyright Notice. In order to secure and maintain copyright protection in a published work, it is essential that all copies published in the United States contain the statutory copyright notice. The notice should ordinarily consist of the word "Copyright," the abbreviation "Copr.," or the symbol ©, accompanied by the name of the copyright owner. The year date of publication may be included in the notice, but normally it is not required.

Alternative Form of Notice. As an alternative, the notice for works of art may consist of the symbol ©, accompanied by the initials, monogram, or mark of the copyright owner, provided the owner's name appears on some accessible part of the copies.

Universal Copyright Convention Notice. Use of the symbol © with the name of the copyright owner and the year date of publication may result in securing copyright in countries which are parties to the Universal Copyright Convention, which protection might not be obtained by use of either of the alternative forms of notice. Example: © John Doe 1964.

Optional Deposit. For certain published works, it may be impractical to deposit actual copies because of their size, weight, fragility, or monetary value. In such cases the Register of Copyrights may permit the deposit of photographs or other reproductions instead of the actual copies, under conditions specified in the Copyright Office Regulations. If the optional form of deposit is used, it will be necessary: (1) to fill out line 4, on pages 1 and 3, and (2) to deposit photographs or other identifying reproductions of the work. For more detailed information, write to the Copyright Office.

NOTE: If copies are published without the required notice, the right to secure copyright is lost and cannot be restored.

FOR COPYRIGHT OFFICE USE ONLY

Application received

One copy or reproduction received

Two copies received

Photographs or reproductions received

NOV 19 1973

Fee received

\$6.00

100431 NOV 19 73

COPY RECEIVED

AUG 1 1974

POLLACK & SINGER
ATTORNEYS FOR Defendant + c.
Appellee

(4969)